

require, for example, captioning by the up to 200 program providers that may have exhibition rights to a given syndicated television program covered under an existing contract.<sup>17</sup>

Accordingly, MPAA's proposal to exempt all contracts in effect on the date the Commission's captioning rules are enacted should be adopted. To do so will in no way undermine Congress' intent, since the exemption will cover only library product currently under contract, not new programming not yet produced or library programming not under contract.

**VII. The Commission Should Clarify The Scope Of Its Proposed Closed Captioning Requirements.**

**A. Closed Circuit Video Programming Should Not Be Subject To The Closed Captioning Rules.**

The Commission should clarify that its closed captioning rules will apply only to those video programs that are delivered electronically to customers' homes, and will not apply to closed circuit video programming which is specially packaged and formatted for delivery to commercial or other non-residential establishments, such as airports, airlines, and hospitals. Indeed, the Commission's proposal to define a "video programming provider" as an entity that "provide[s] video programming directly to a customer's home" indicates that the Commission did not intend to encompass closed circuit programming within the types of video programs subject to the closed captioning rules.<sup>18</sup>

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<sup>17</sup> See the Attachment hereto for a conservative estimate of the costs of recaptioning a television series already in the hands of program providers.

<sup>18</sup> See NPRM at 18, ¶ 28 (emphasis added).

This minor clarification of the scope of the closed captioning rules is justified by the nature of closed circuit video programming, typically a service offered in public places to viewers who, whether in a retail establishment, airport or hospital lounge, are not the “customers” of that programming. Generally, only the commercial establishment with which the programmer has contracted to provide the service (the actual “customer”) can activate the closed captioning display; viewers in such public locations, the intended beneficiaries of closed captioning, are unable to do so. Thus, since there is no means of providing captions only for the hearing-impaired, a requirement to caption closed circuit television programs would essentially mandate continuous “open” captioning, imposing the service on a potentially large segment of the audience that may not wish to view captions, or finds them to be a distraction. In addition, a requirement that all closed circuit programming be captioned would increase the cost of this specially packaged programming, and potentially reduce the number of commercial establishments offering such services.

**B. The Commission’s Rules Should Confirm That Information Transmitted On The Second Audio Program Channel Need Not Be Captioned.**

All current closed captions utilize line 21 of the vertical blanking interval (“VBI”), which the Commission has primarily reserved for that purpose,<sup>19</sup> to display the main audio portion of a television signal as printed words on the television screen. Although there is nothing in the NPRM to indicate that the Commission intends to revisit the use of line 21, the Commission nevertheless should confirm that it will not require information transmitted over the Second Audio

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<sup>19</sup> NPRM at 8, ¶ 8.

Program (“SAP”) channel, such as Spanish-language translations of the main audio signal, to be closed captioned. A captioning requirement would not be cost-effective in this context.

**VIII. The Commission Should Not Impose Standards On The Non-Technical Aspects Of Captioning Quality And Accuracy, And Spelling Accuracy Should Not Be Addressed At This Time.**

MPAA endorses the Commission’s proposal not to impose standards on the non-technical aspects of captioning and accuracy at present. Marketplace forces and the complaint-driven enforcement process will provide powerful incentives for program providers and owners to distribute the best quality captioning possible. For the same reason, MPAA believes that spelling accuracy should be considered a non-technical issue, and therefore should not be addressed in the instant proceeding.

**IX. Conclusion**

The Commission’s closed captioning rules must take into consideration certain realities of the video distribution marketplace if they are to be effective in increasing the amount of closed captioned programming available to the public. With respect to both new and library programming, the costs of captioning and recaptioning and the sheer volume of video product in existence justify very gradual transition periods for implementation, even assuming that captioning requirements are needed for library programming. As the Commission itself has concluded, program providers, not program owners, are in the best position to ensure compliance with the

rules. Finally, exemptions for interstitials and other short-form programs, and for contracts in effect on the date of enactment of Section 713, are entirely justified.

Respectfully submitted,

THE MOTION PICTURE ASSOCIATION  
OF AMERICA, INC.

By: Barbara K. Gardner  
Norman P. Leventhal  
Barbara K. Gardner  
John D. Poutasse

Leventhal, Senter & Lerman  
2000 K Street, N.W., Suite 600  
Washington, DC 20006  
(202) 429-8970

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Its Attorneys

**ATTACHMENT**

**COSTS OF CAPTIONING TELEVISION SERIES**

**A. IF DONE IN A NORMAL RELEASE WINDOW**

Create captioned master of one episode of a one-hour program:

Send captioning company a captioning cassette	\$ 30.00
Captioning charges of outside captioning company	800.00*
Create encoded master: digital Betacam to digital Betacam	<u>450.00</u>
	\$1,280.00

Create 20 dubbing copies (*assume 10 are 1-inch dubbing masters, and 10 are 3/4-inch dubbing masters*):

\$125.00 per 1-inch x 10	1,250.00
\$45.00 per 3/4-inch x 10	<u>450.00</u>
	+\$1,700.00

Plus 2 satellite feeds (*some customers prefer hard copies, some prefer a feed*):

	<u>+\$1,000.00</u>
Subtotal: Cost per episode	\$3,980.00

Estimate 120 episodes per series  
(*many series have 200 episodes; some, like "Gunsmoke," have 500*)

<u>          </u>	<u>x120</u>
	\$477,600.00

Add shipping (*not overnight, for the 20 stations assumed to prefer tapes*):

\$200.00 x 20 stations	<u>+\$4,000.00</u>
Subtotal: Cost per series	\$481,600.00

Assume 30 series (*typical for MPAA member companies*):

	<u>          </u>	<u>x30</u>
Grand Total: Cost for 30 series		\$14,448,000.00

\* Pro-rated from bulk rate.

**B. IF REQUIRED TO BE DONE AFTER PROGRAM PROVIDERS HAVE TAPES**

Assume all tapes in the field must be replaced.

Cost of original captioning and master (detailed under Part A. above)	\$1,280.00
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Assume 150 broadcast stations need replacements  
(assume 90 need 1-inch tapes, 60 need 3/4-inch tapes):

\$125.00 per 1-inch x 90 stations	\$11,250.00
\$45.00 per 3/4-inch x 60 stations	<u>2,700.00</u>

	<u>+\$13,950.00</u>
Subtotal: Cost per episode	\$15,230.00

120 episodes per series	<u>x120</u>
	\$1,827,600.00

Add shipping (*not overnight*):

\$200.00 x 150 stations	<u>+\$30,000.00</u>
Subtotal: Cost per series	\$1,857,600.00

Assume 30 series	<u>x30</u>
Grand Total: Cost for 30 series	\$55,728,000.00

NOTES: (1) Estimates are conservative, and do not include labor and handling costs, such as warehouse movement costs.

(2) Estimates are for television series only, not feature films.

(3) Shipping costs assume an entire 120-episode series is bundled in a single shipment, and that overnight courier service is not used. Costs would be much higher if shipments were smaller, or deadlines shorter.